

AMENDED IN ASSEMBLY APRIL 8, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 647**

**Introduced by Assembly Member Nunez**

February 19, 2003

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An act to amend Section 1942.4 of the Civil Code, and to add Section 1174.21 to the Code of Civil Procedure, relating to tenancy.

LEGISLATIVE COUNSEL'S DIGEST

AB 647, as amended, Nunez. Tenancy: code violations: penalties.

(1) Existing law provides that a landlord is liable to a tenant for up to \$1,000 when the landlord demands or collects rent on a building that is untenable, has been inspected by public officer responsible for enforcement of housing law who has provided a specified notice to a landlord, and for which the violations have continued to exist for 60 days, as specified.

This bill would provide that a landlord is liable also when the landlord issues a notice of rent increase or issues a 3-day notice pursuant to an unlawful detainer action, ~~under the circumstances described above as specified. The bill would add certain health and safety violations to the list of characteristics of a dwelling that may result in liability.~~ The bill would reduce the period of time that the violations would need to have continued to exist to ~~30~~ 35 days, *as specified*. The bill would also increase the amount that a tenant or lessee could collect under these provisions to \$5,000, and permit the recovery of costs.

(2) Existing law permits a landlord to bring an action for unlawful detainer and permits a tenant to assert an affirmative defense that the

landlord has failed in his or her obligation to provide a tenantable dwelling or has breached any other warranty of habitability.

This bill would provide that a landlord who institutes an unlawful detainer proceeding or other action to collect rent, and who is in violation of specified provisions, is liable to the tenant or lessee for *reasonable* attorneys' fees and costs of the suit, in an amount to be fixed by the court.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1942.4 of the Civil Code is amended to  
2 read:

3 1942.4. (a) A landlord of a dwelling may not demand rent,  
4 collect rent, issue a notice of a rent increase, or issue a three-day  
5 notice to pay rent or quit pursuant to subdivision (2) of Section  
6 1161 of Code of Civil Procedure, if all of the following conditions  
7 exist *prior to the landlord's demand or notice*:

8 (1) The dwelling substantially lacks any of the affirmative  
9 standard characteristics listed in Section 1941.1 *or violates Section*  
10 *17920.10 of the Health and Safety Code, or is deemed and*  
11 *declared substandard as set forth in Section 17920.3 of the Health*  
12 *and Safety Code because conditions listed in that section exist to*  
13 *an extent that endangers the life, limb, health, property, safety, or*  
14 *welfare of the public or the occupants of the dwelling.*

15 (2) A public officer or employee who is responsible for the  
16 enforcement of any housing law, after inspecting the premises,  
17 ~~notifies~~ *has notified* the landlord or the landlord's agent in writing  
18 of his or her obligations to abate the nuisance or repair the  
19 substandard conditions.

20 (3) The conditions have existed and have not been abated ~~30~~ 35  
21 days beyond the date of ~~issuance~~ *service* of the notice specified in  
22 paragraph (2) and the delay is without good cause. *For purposes*  
23 *of this subdivision, service shall be complete at the time of deposit*  
24 *in the United States mail.*

25 (4) The conditions were not caused by an act or omission of the  
26 tenant or lessee in violation of Section 1929 or 1941.2.

27 (b) (1) A landlord who violates this section is liable to the  
28 tenant or lessee for the actual damages sustained by the tenant or

1 lessee and special damages of not more than five thousand dollars  
2 (\$5,000).

3 (2) The prevailing party shall be entitled to recovery of  
4 reasonable attorney's fees and cost of the suit in an amount fixed  
5 by the court.

6 (c) Any court that awards damages under this section may also  
7 order the landlord to abate any nuisance at the rental dwelling and  
8 to repair any substandard conditions of the rental dwelling, as  
9 defined in Section 1941.1, which significantly or materially affect  
10 the health or safety of the occupants of the rental dwelling and are  
11 uncorrected. If the court orders repairs or corrections, or both, the  
12 court's jurisdiction continues over the matter for the purpose of  
13 ensuring compliance.

14 (d) The tenant or lessee shall be under no obligation to  
15 undertake any other remedy prior to exercising his or her rights  
16 under this section.

17 (e) Any action under this section may be maintained in small  
18 claims court if the claim does not exceed the jurisdictional limit of  
19 that court.

20 (f) The remedy provided by this section and may be utilized in  
21 addition to any other remedy provided by this chapter, the rental  
22 agreement, lease, or other applicable statutory or common law.  
23 Nothing in this section shall require any landlord to comply with  
24 this section if he or she pursues his or her rights pursuant to Chapter  
25 12.75 (commencing with Section 7060) of Division 7 of Title 1 of  
26 the Government Code.

27 SEC. 2. Section 1174.21 is added to the Code of Civil  
28 Procedure, to read:

29 1174.21. A landlord who institutes an unlawful detainer  
30 proceeding or another action to collect rent, and who is liable for  
31 a violation of Section 1942.4 of the Civil Code, shall be liable to  
32 the tenant or lessee for *reasonable* attorneys' fees and costs of the  
33 suit, in an amount to be fixed by the court.